

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VERNON MCCULLUM, III,

Defendant.

3:13-cr-00012-RCJ-WGC-1

ORDER

Pursuant to a plea agreement with the United States, Defendant Vernon McCullum, III pled guilty in this Court to count five of the Superseding Indictment for transportation of a minor in interstate commerce for prostitution or other illegal sexual activity. The Court sentenced Defendant to 168 months imprisonment, to be followed by lifetime supervised release. Defendant petitioned the Court to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 based upon trial counsel's failure to appeal certain issues. The Court denied the petition, finding that the claim was both procedurally defaulted and without merit.

Defendant then simultaneously filed a notice of appeal with the Court of Appeals and a motion for a certificate of appealability in this Court pursuant to § 2253. The Court denied the motion, and the Court of Appeals denied a similar motion. Defendant asked the Court to reconsider under Civil Rule 59(e). The Court declined to reconsider for three reasons. First, the motion was untimely. *See* Fed. R. Civ. P. 59(e) (providing twenty-eight days after the entry of an order to request reconsideration); Rules Gov'g § 2255 Proc'gs 12 (providing that the Civil Rules

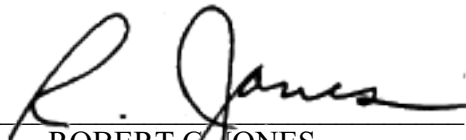
1 apply in § 2255 proceedings where not inconsistent with statute or the § 2255 Rules). Second,
2 the motion was without merit. Defendant reargued the same points the Court had previously
3 rejected. Third, the Court was bound to deny the motion, because the Court of Appeals had
4 denied an identical motion. Defendant has asked the Court to reconsider again. The Court will
5 not entertain a successive motion to reconsider.

6 **CONCLUSION**

7 IT IS HEREBY ORDERED that the Motion for Reconsideration (ECF No. 155) is
8 DENIED.

9 IT IS SO ORDERED.

10 Dated this 9th day of January, 2015.

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13 ROBERT C. JONES
14 United States District Judge
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